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Office of the Montana State Auditor
2 Commissioner of Securities and Insurance (CSI)
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3 Helena, MT 59601
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4 Attorney for the CSI
5

Hearing Examiner

JUN 12 REC'D

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7
8 **BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE**
MONTANA STATE AUDITOR
9

10 **In the Matter of**
the License of Ted Lee Jones,
11 Applicant and Respondent.

) Case No. INS 2017-33
)
)
)

NOTICE OF PROPOSED
AGENCY ACTION AND
OPPORTUNITY FOR HEARING
13

14 **TO:** Ted Lee Jones
4645 South Wyoming Street
15 Butte, MT 59701

16 **PLEASE TAKE NOTICE:**

17 The Office of the Montana State Auditor, Commissioner of Securities and Insurance
18 (CSI), pursuant to the authority of the Montana Insurance Code (Mont. Code Ann. § 33-1-
19 101 et seq.), has denied the application for an insurance producer license of Ted Lee Jones
20 (Respondent) pursuant to Mont. Code Ann. § 33-17-1001.

21 **JURISDICTION**

22 The CSI has authority to take such action under the provisions of Mont. Code Ann.
23 §§ 33-1-102, 33-1-311, 33-1-317, 33-17-201, and 33-17-1001.

24 **RELEVANT FACTS**

25 1. On December 6, 2016, the CSI received an online (electronic) application for
26 an insurance producer license bearing the name of Ted Lee Jones. The application included
27 the following:

1 The Applicant must read the following very carefully and answer every
2 question. All written statements submitted by the Applicant must include an
original signature.

3 1a. Have you ever been convicted of a misdemeanor, had a judgment withheld
or deferred, or are you currently charged with committing a misdemeanor?

4 You may exclude the following misdemeanor convictions or pending
5 misdemeanor charges: traffic citations, driving under the influence (DUI),
driving while intoxicated (DWI), driving without a license, reckless
6 driving, or driving with a suspended or revoked license.

7

8 **NOTE:** For Questions 1a, 1b and 1c, "**Convicted**" includes, but is not
9 limited to, having been found guilty by verdict of a judge or jury, having
entered a plea of guilty or nolo contendere or no contest, or having been
given probation, a suspended sentence, or a fine.

10 If you answer yes, you must attach to this application:

- 11 a) a written statement explaining the circumstances of each incident.
12 b) a copy of the charging document,
c) a copy of the official document, which demonstrates the resolution or the
charges or any final judgment.

13 Respondent marked "No" in response to question 1. As part of the application,

14 Respondent attested to the following:

15 I hereby certify that, under penalty of perjury, all of the information submitted
16 in this application and attachments is true and complete. I am aware that
submitting false information or omitting pertinent or material information in
17 connection with this application is grounds for license or registration
revocation or denial of the license and may subject me to civil or criminal
18 penalties.

19 2. As part of the process required by Montana law (referred to below), the CSI
20 performed a review of the application, as well as review of a background check of
21 Respondent. The background information included credible evidence of up to 15
22 misdemeanor convictions (other than those permissibly excluded) in the years 2006 through
23 2015.

24 3. On January 4, 2017, Jeannie Keller, Insurance Services Bureau Chief for the
25 CSI, called Respondent to discuss the discrepancy between his criminal history and his
26 application. Respondent first said he answered no to the above question because he "didn't
27 have any serious felonies" on his record; Keller then discussed the requirement that an

1 applicant read each question carefully and the procedure related to criminal convictions.
2 Respondent then became agitated and told Keller to "lose the tude." Keller informed
3 Respondent that she would send him an email regarding the application and ended the call.
4 Respondent called Keller back and started screaming at her, so she hung up again.
5 Respondent called back a second time and left a voicemail message that he was going to
6 contact her supervisor.

7 4. On January 9, 2017, Keller sent an email to Respondent, stating that he would
8 be allowed to change his answer and provide the required information by January 19, 2017.

9 5. On January 18, 2017, the CSI received a letter from Respondent. The letter
10 asserts a lack of memory generally regarding his "background charges in question." The
11 attachments include orders regarding six of the 15 convictions, but none of the other
12 required attachments.

13 6. On May 4, 2017, the CSI sent to Respondent a letter from Keller denying
14 Respondent's license request. The letter stated that some of the reasons for the denial are his
15 criminal convictions, his failure to honestly and accurately answer the application question
16 regarding misdemeanors, and his failure to comply with the CSI request for information
17 stated originally and on January 9, 2017. The letter was sent with a return receipt requested;
18 the receipt for the letter was signed May 8, 2017.

19 7. On May 12, 2017, the CSI received Respondent's request for a hearing in this
20 matter. On that day, his request was granted and on May 17, 2017, a hearing examiner was
21 appointed.

22 APPLICABLE LAW

23 1. Montana law provides that the CSI is the licensing agency for insurance
24 producers (any person or entity required to be licensed under the laws of this state to sell,
25 solicit, or negotiate insurance). The duties and responsibilities in this regard include
26 practices fashioned to protect the public and other persons engaged in the insurance
27 business by gathering information from the applicant and reviewing background

1 information from sources other than the applicant.

2 2. Montana law provides:

3 **General qualifications -- application for license.** (1) An individual applying
4 for a license shall apply in a form approved by the commissioner and declare
5 under penalty of refusal, suspension, or revocation of the license that
6 statements made in the application are true, correct, and complete to the best of
7 the individual's knowledge and belief. Before approving the application, the
8 commissioner shall verify that the individual:

9 (a) is 18 years of age or older;

10 (b) has not committed an act that is a ground for refusal, suspension, or
11 revocation as set forth in 33-17-1001;

12 (c) has paid the license fees stated in 33-2-708;

13 (d) has successfully passed the examinations for each kind of insurance
14 for which the individual has applied within 12 months of application;

15 (e) is a resident of this state or of another state that grants similar
16 privileges to residents of this state. Licenses issued based upon Montana state
17 residency terminate if the licensee relocates to another state.

18 (f) is competent, trustworthy, and of good reputation;

19 (g) has experience or training or otherwise is qualified in the kind or
20 kinds of insurance for which the applicant applies to be licensed and is
21 reasonably familiar with the provisions of this code that govern the applicant's
22 operations as an insurance producer; . . . ; and

23 (i) has completed a background examination pursuant to 33-17-220.

24 . . .

25 Mont. Code Ann. § 33-17-211.

26 3. Montana law provides:

27 **Suspension, revocation, or refusal of license.** (1) The commissioner may
suspend, revoke, refuse to renew, or refuse to issue a license under this
chapter, may levy a civil penalty in accordance with 33-1-317, or may
choose any combination of actions when a licensee or applicant for
licensure has: . . .

(b) obtained or attempted to obtain a license through
misrepresentation or fraud, including but not limited to providing incorrect,
misleading, incomplete, or materially untrue information in the license
application or in the continuing education affidavit; . . .

Mont. Code Ann. § 33-17-1001.

4. Montana law provides:

Hearings -- discretion -- written demand -- procedure. (1) The
commissioner may hold hearings for any purpose within the scope of this
code considered necessary. Hearing procedures contained in Title 33,
chapter 1, apply only to Title 33, except as otherwise provided.

(2) A person may provide the commissioner with a written demand
for a hearing. A written demand must specify the grounds relied upon as a
basis for the relief sought at the hearing. If the commissioner does not issue

1 an order granting a person's request for a hearing within 30 days of
2 receiving a request, the hearing is considered refused.

3 (3) All hearings must be conducted pursuant to the Montana
4 Administrative Procedure Act, as provided in Title 2, chapter 4, part 6. Any
5 supplemental hearing procedures may be adopted by administrative rule.

6 Mont. Code Ann. § 33-1-701.

7 **ALLEGATIONS AND RELIEF REQUESTED BY CSI**

8 Based on the foregoing, the CSI alleges that the acts of the Respondent in initially
9 answering questions on the insurance producer application regarding misdemeanor
10 convictions shows that the Respondent is not competent, trustworthy, and of good
11 reputation. Similarly, his failure to thereafter complete the requirements of
12 documentation regarding the misdemeanor convictions known to the CSI, shows that the
13 Respondent is not competent, trustworthy, and of good reputation. Finally, Respondent's
14 actions toward staff of the CSI during telephone calls shows that the Respondent is not
15 competent, trustworthy, and of good reputation.

16 The CSI seeks the continued denial of an insurance producer license to the
17 Respondent.
18

19 **STATEMENT OF RIGHTS OF AND NOTICE TO RESPONDENT**

- 20 1. You are entitled to a hearing to respond to this Notice, present evidence,
21 and present arguments on all issues involved in this case. You may have a
22 formal hearing before a hearing examiner appointed by the Commissioner
23 as provided in the Montana Administrative Procedure Act, § 2-4-601 et seq.
24 Your letter received May 12, 2017, by the CSI fulfills your obligation to
25 provide a written request for such a hearing.
- 26 2. You have the right to be represented by an attorney at any and all stages of
27 this proceeding. Any such attorney must be admitted to practice law in

1 Montana pursuant to the applicable rules of the State Bar of Montana and
2 the Montana Supreme Court.

3 DATED this 2nd day of June, 2017.

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5 **BARBARA C. HARRIS**
6 Attorney for CSI

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8 **CERTIFICATE OF SERVICE**

9 The undersigned hereby certifies that on this 2nd day of June, 2017, a true
10 and correct copy of the foregoing Notice of Proposed Agency Action and Opportunity for
11 Hearing was sent by certified mail, postage prepaid, return receipt requested, to:

12 Ted Lee Jones
13 4645 South Wyoming Street
14 Butte, MT 59701

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